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Contra, Wood v. American Fire Ins. Co., 149 N. Y. 382; *Insurance Co. v. Wilkinson*, 13 Wall. 222—the latter case being decided on the express ground that no notice of agent's limitation of authority came to the assured's knowledge, though the weight of authority is contrary. The other ground of the decision is that parol evidence may not be introduced to vary the effect of a written contract. *Martin v. Franklin Fire Ins. Co.*, 40 N. J. Law 568.

MANSLAUGHTER—VERDICT—SUFFICIENCY—FORMER JEOPARDY.—*MAHANY v. PEOPLE*, 73 PAC. 26, (COL.).—*Held*, that where a verdict of manslaughter was void because the jury failed to designate whether it was voluntary or involuntary, as required by statute, but the defendant made no objection to the discharge of the jury, merely excepting to the verdict in the usual form, he cannot plead former jeopardy on a subsequent trial.

As to what constitutes jeopardy there are two widely variant rules. The courts of some States hold that when a person has been placed on trial on a valid indictment and the jury has been sworn, he is in jeopardy. 17 *Am. & Eng. Enc. of Law* (2d ed.), 584; 1 *Bish., Crim. Law* (5th ed.), 1016. But the greater weight of authority supports the rule that jeopardy does not attach until a valid verdict, for conviction or acquittal, has been rendered. *U. S. v. Gilbert*, 2 Sumn. 60; *People v. Goodwin*, 18 John. 187; 17 *Am. & Eng. Enc. of Law* (2d ed.), 585. The courts of Colorado follow the latter rule. Two alternative processes of reasoning are used to justify the granting of a new trial. First: A defective verdict is a nullity and, therefore, the prisoner never has suffered actual jeopardy. *Kearney v. People*, 11 Col. 258; *U. S. v. Haskill*, 4 Wash. C. C. 409; *U. S. v. Coolidge*, 2 Gall. 364; *Wharton's Crim. Law*, 573-587. Second: A failure on the part of the prisoner to object to the discharge of the jury and to ask for a correction of the verdict, involves an implied waiver of the privilege of subsequently pleading previous jeopardy. This reasoning is equally well supported. *Carpenter v. State*, 62 Ark. 286; *Murphy v. State*, 7 Cold. (Tenn.) 516; *Com. v. Call*, 21 Pick. 506. Thus, notwithstanding the two very different rules defining jeopardy, it seems beyond dispute that when a defective verdict is rendered and the prisoner makes no objection to the discharge of the jury, he cannot plead former jeopardy at a new trial.

MARTIAL LAW—DUTY OF SOLDIER—HOMICIDE.—*COMM. EX REL. WADSWORTH v. SHORTALL*, 55 ATL. 952 (PA.).—*Held*, that where a militiaman, called out to suppress disorder, without malice, in performance of his duty, and under orders, commits a homicide, he is excusable, unless he manifestly exceeded his authority and knew the act to be illegal.

The issue by a governor of a general order, calling out the militia to maintain order in a certain district, is a declaration of qualified martial law. This is contrary to the ruling of the Supreme Court of the United States in *Ex parte Milligan*, 71 U. S. 2, that martial law cannot exist in time of peace. 1 *Bl., Com.*, 413; *Johnson v. Jones*, 44 Ill. 157. But many authorities hold that it exists wherever soldiers are called out to suppress disorder. However, the necessity must be urgent. *Bryan v. Walker*, 64 N. C. 141; *Koonce v. Davis*, 72 N. C. 218; *Merritt v. Nashville*, 5 Cold. (Tenn.) 95. For acts done in the suppression of public disorder, a commander is liable, civilly and criminally. *Mitchell v. Harmony*, 13 How. 115; *Milligan v. Hovey*,